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March 17, 2005

**EX PARTE - VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Ex Parte Letter  
Level 3 Petition for Forbearance, CC Docket No. 03-266  
IP-Enabled Services, WC Docket No. 04-36**

Dear Ms. Dortch:

DigiLinea, Inc. (“DigiLinea”), through its undersigned counsel hereby submits this letter in support of the Petition for Forbearance (the “Petition”) filed by Level 3 Communications LLC’s (“Level 3”) in the docket referenced above.<sup>1</sup> DigiLinea as a VoIP innovator requires the Commission to remove immediately the legal uncertainty that is restraining the integration of exciting new communications products with the public switched telephone network (“PSTN”). Granting the Petition and specifying that cost-based reciprocal compensation applies to the exchange of IP-PSTN (and certain PSTN-IP) traffic between carriers, rather than the above-cost access charge regime, will provide the legal certainty needed to permit greater interoperability between IP networks and the PSTN. DigiLinea urges the Commission to immediately grant the Petition.

In order to deliver its products to the vast majority of communications end users who are only connected to the PSTN, IP-enabled service providers, including DigiLinea, require access to traditional PSTN carriers. However, nowadays many PSTN carriers are reluctant to contract with IP-enabled service providers. By directing threats and lawsuits at traditional PSTN carriers who dare to connect IP networks to the PSTN, the incumbents are effectively preventing the migration of the stand-alone PSTN to an interoperable IP/PSTN communications network.

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<sup>1</sup> See Petition for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of 47 U.S.C. § 251(g), Rule 51.701(b)(1), and Rule 69.5(b), WC Docket 03-266 (filed Dec. 23, 2003). If granted, the Petition will prevent local exchange carriers (“LECs”) from imposing access charges on certain Internet Protocol (“IP”) traffic that utilizes the PSTN for a portion of the traffic’s routing.

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IP-enabled services providers are meeting the needs of certain communities that may have been neglected by traditional incumbents. For example, DigiLinea allows its customers to have local, long distance, and up to 100 minutes of calling time to Latin America all for less than their current local phone bill. DigiLinea's VoIP network currently carries millions of calls a month and offers its own agent network with physical distribution points across the US serving the US Hispanic Community and a 24 by 7 Spanish language NOC and Customer Support center which supports DigiLinea business and residential VOIP clients.

Granting the Petition would provide clarity needed by traditional PSTN providers on one issue—intercarrier compensation—under existing rules. It will not prejudge comprehensive intercarrier compensation reform or the numerous issues pending in the Commission's IP-enabled Services NPRM. DigiLinea urges the Commission to grant the Petition now to ensure that its customers can connect to the millions of end users that use the PSTN. Affirming that reciprocal compensation—not above-cost access charges—applies to the exchange of IP-PSTN (and certain PSTN-IP) traffic would create the certainty necessary for traditional carriers to serve providers of IP-enabled service.

Even though this clarification would only last for a short period until the Commission addresses all of the issues raised in the intercarrier compensation reform in Docket No. 01-92 and adopts new rules, it is no less important than permanent intercarrier compensation reform. A clear answer as to what is the appropriate intercarrier compensation rate is needed immediately to allow competitive carriers to enter into agreements with other carriers for the exchange of IP-enabled traffic at cost-based rates.

Respectfully,

/s/  
William B. Wilhelm, Jr.  
Ulises R. Pin

Counsel for DigiLinea, Inc.